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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,793	07/03/2003	Roland R. Oosterhouse	OOS02 P-300	7346

277 7590 06/17/2005

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EXAMINER

ADAMS, GREGORY W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,793

Applicant(s)

OOSTERHOUSE, ROLAND R.

Examiner

Gregory W. Adams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 102***

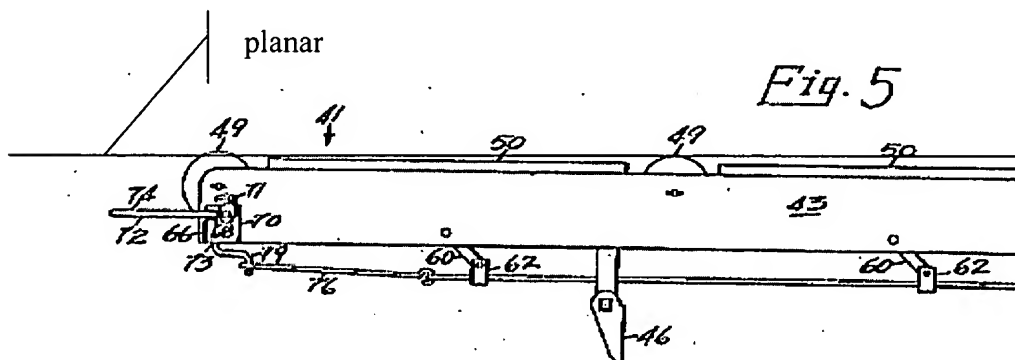
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

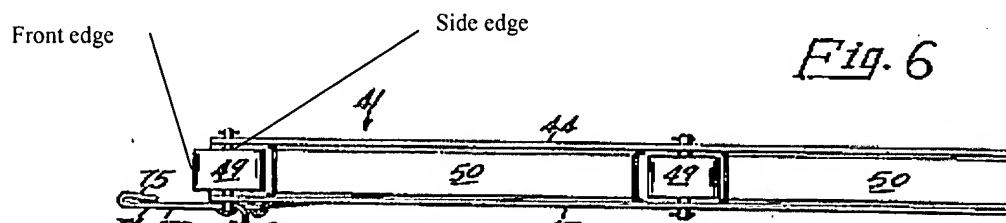
2. Claims 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Calkins et al. (US 3,104,770).

3. With respect to claim 7, referring to FIGS. 1-7 Calkins et al. disclose a trailer for watercraft 9 including a frame 10,11,12,13,14, wheels 28,30, tongue 17, planar main support surface 49, bunks 50 in vertical registry with bunk openings (col. 2, Ins. 68-71), linkages 60 which connect bunks 50 to frame 10,11,12,13,14, col. 3, Ins. 19-23, and a retainer 60, for holding bunks 50. Col. 3, Ins. 28-34. Here, Calkins et al. disclose a planar surface comprised of eight (8) rollers 49, a portion being less than eight, i.e. two as shown below.



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4. With respect to claim 8, referring to FIGS. 1-7 Calkins et al. disclose a pin 60 on bunk 50. It is noted that "on" comprises touching. In addition, Calkins et al. disclose an opening on main support 49.
5. With respect to claim 9, referring to FIGS. 1-7 Calkins et al. disclose a support surface 49, retainer opening 62 adjacent each elongated opening, col. 2, Ins. 68-71, and a pin 60 extending downward from bunks 50, to engage the retainer opening, securing the bunks 50 in a raised position. Col. 3, Ins. 26-29.
6. With respect to claim 10, referring to FIGS. 1 Calkins et al. disclose a pair of rollers 100 aligned with bunks 50.
7. With respect to claim 11, referring to FIG. 1 Calkins et al. disclose a main support 49 defining spaced apart opposite side edges, and an upwardly protruding structure to retain articles. It is noted that the upwardly protruding structure 49 retains objects from falling down.



8. With respect to claim 12, referring to FIG. 1 Calkins et al. disclose a main support surface 49 which defines a front edge and frame 10,11,12,13,14 which includes an upwardly extending support 21, and a winch 23. See also col. 2, Ins. 33-35.
9. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Urbank (US 5,722,809). Urbank discloses a kit including a dolly 50 having a base frame 54, a pair of wheels 52, support frame 63,64, rollers 56,58,62 which are at about the same height

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as a pair of trailer bunks 63,64, and a trailer 10 having trailer frame 18, wheels 14, bunks 31 having a main support surface. The dolly 50 is maneuverable into a position such that raised rollers 56,58,62 are positioned to transfer a watercraft from a dolly 50 onto the bunks 31. Urbank discloses a support frame which moves relative to a base frame. Further, Applicant is respectfully reminded that claim language consisting of functional language, i.e. "for raising and lowering", and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the support frame 63, 64 is capable of being raised or lowered with respect to a base frame 54.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrand (US 5,292,145) in view of Taylor (US 5,005,846) (cited in Applicants 1449).

12. With respect to claim 1, referring to FIGS. 1-4 Ostrand discloses a dolly 10 having base frame 14,15, wheels 29,30, parallel bunks 35,36 which have an upper surface for support of a watercraft, support frame 41 having rollers 37,38, and a lift 60 which lifts the support frame 41 and rollers 37,38 above the bunks 35,36. Ostrand does not disclose a dolly having a pair of wheels at a front end and a pair of wheels at a rear end. Taylor '846 discloses a dolly 100 comprising wheels 126 at a front end and wheels

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126 at a rear end for movably supporting a base frame 101 on a surface. Taylor teaches the use of front and rear wheel pairs for mobility of heavy, awkward jet skis over land by a single person, from a ground vehicle and into the water by a single person. Col. 3, Ins. 50-65. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dolly of Ostrand to include front and rear pairs of wheels, as per the teachings of Taylor, such that a single person can move a jet ski from a land vehicle over land and into the water.

With respect to claim 2, referring to FIGS. 1-4 Ostrand discloses a support frame 41 having elongate structural member, col. 4, ln. 1-3, for supporting rollers 37,38.

With respect to claim 3, referring to FIG. 1 Ostrand discloses elongated structural members positioned between bunks 35,36. Col. 4, Ins. 1-3.

With respect to claim 4, referring to FIGS. 1-3 Ostrand discloses a winch 71 secured to a base frame 14,15 and support frame 41.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrand (US 5,292,145) and Taylor (US 5,005,846) as applied to claim 1 above, and further in view of in view of Kelly (US 6,767,171). Ostrand does not disclose a scissors jack. Kelly '171 discloses a lift including a scissors jack 7,8 for moving a support frame 13, and a handle 18 secured to the drive shaft. The scissor lift of Kelly '171 allows for the ramp to be selectively operated, col. 2, Ins. 18-29. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the lift by Ostrand with a scissor lift, as taught by Kelly, to provide a selectively operated lift.

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14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrand (US 5,292,145), Taylor (US 5,005,846) and Kelly (US 6,767,171) in view of Legg (US 2,707,061). Ostrand does not disclose a winch mounted on an upright member, or handle formed by an upright member for manual transport of the dolly. Legg discloses a dolly 10 comprising a winch mounted on a first upright member 23, two horizontally extending frame members 10d, 10e fixed to first upright member 23, two upright outer frame members 10g, 10h secured to horizontally extending frame member outer ends, and an upper horizontal frame member 10i secured to upper ends of upright outer frame members. Legg teaches a dolly adapted for boats such that the upright and horizontal members support pulleys which guide a cable attached at one end to a winch 25-28, and on the other end to a boat. Col. 1, Ins. 5-60. Therefore, Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dolly of Ostrand to include upright and horizontal members, as per the teachings of Legg, to support a cable, winch, and respective pulleys to winch a boat on to a dolly.

15. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Urbank (US 5,722,809) in view of Ostrand (US 5,292,145). As noted in claim 13 above Urbank '809 recites a dolly for supporting a watercraft. Urbank does not disclose a lift. Ostrand '145 discloses a dolly 10 for transporting a watercraft having a lift 60 connected to a base frame 14,15, and a support frame 41, the lift 60 moving a support frame 41. Ostrand teaches that raising and lowering the rollers facilitates loading and unloading the trailer via rollers and transportation via bunks. Col. 2, In. 18-22. Therefore, it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to add a lift to the dolly of Urbank, as per the teachings of Ostrand, such that the trailer can be loaded and unloaded via rollers, and a watercraft transported on the bunks.

16. Claim 15-18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Urbank (US 5,722,809) and Ostrand (US 5,292,145) in view of Kelly (US 6,767,171).

With respect to claim 15, referring to FIG. 1 Calkins et al. disclose a main support surface defining spaced apart opposite side edges, and an upwardly protruding structure to retain articles. It is noted that the upwardly protruding structure retains objects from falling down.

With respect to claim 16, referring to FIG. 4 Urbank discloses a dolly 50 having a base frame 54, support frame 63,64, and a plurality of rollers 58 secured to the support frame.

With respect to claim 17, as noted above Urbank, Ostrand and Kelly recite claims 13-16. Referring to FIG. 4 Urbank discloses elongated structural members positioned between bunks 63,64. It is noted that Urbank does not limit the elongate structural members to between bunks 63,64.

With respect to claim 18, as noted above Urbank, Ostrand and Kelly recite claims 13-17. Urbank does not disclose a winch. Ostrand '145 discloses a winch 71 on a base frame 14,15 and a support frame 41. Within the art of trailering watercraft winches are commonly for hoisting a watercraft to a trailer. See cited prior art Hawkins winch 78 (US 4,895,387), Cooper, col. 3, ln. 31 (US 4,781,392), Hofgren winch 24 (US 4,754,988), Sprague winch 74 (US 4,623,161) as examples. Therefore, it would have been obvious

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to one of ordinary skill in the art at the time the invention was made to modify the dolly of Urbank to add a winch, as per the teachings of Ostrand, such that a watercraft may be hoisted on to a trailer.

17. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urbank (US 5,722,809) as applied to claim 13 above, and further in view of Calkins et al. (US 3,104,770).

With respect to claim 19, as noted above Urbank recites claim 13. Urbank does not disclose a linkage for interconnecting the bunks to the frame. Referring to FIGS. 1-7 Calkins et al. disclose a trailer for watercraft 9 with movable bunks 50. Col. 3, ln. 28-34. Calkins et al. teach that movable bunks facilitate loading and unloading of the trailer. Col. 1, ln. 25-30. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Urbank to provide movable bunks, as per the teachings of Calkins et al., such that a watercraft is loadable on to a trailer.

With respect to claim 20, Urbank does not disclose a linkage connecting the bunks to the frame. Calkins et al. disclose linkages 60, which connect bunks 50 to frame 10,11,12,13,14, col. 3, ln. 19-23. Calkins et al. teach that a linkage is required to lift the bunks 50. Col. 3, ln. 24-25. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Urbank to provide a linkage as per the teachings of Calkins et al., such that the bunks would lift.

With respect to claim 21, Urbank does not disclose a retainer. Calkins et al. disclose a retainer 63, for holding up bunks 50. Col. 3, ln. 28-34. Calkins et al. teach

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that a retainer is preferable for easy of fastening and unfastening while securing bunks 50 in a lifted position. Col. 3, ln. 33-40. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Urbank to provide a retainer of Calkins et al., such that the bunk would be held in a lifted position.

Response to Arguments

18. Applicant's arguments filed February 24, 2005 have been considered but are not persuasive.

19. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection referencing art of record. However, addressing applicants argument with respect to claim 1, that Ostrand does not raise "substantially" or "significantly". "Significantly" fails to inform as to how far to raise or lift. However, assuming "significantly" a large distance, i.e. 22 inches, Ostrand neither discloses nor suggests a range, distance or limit for the distance of raising, and the passage from Ostrand cited by applicant, that the distance "is just sufficient to raise the rollers to a position in which the rollers engage the boat and lift it away from the bunks" lends no support for applicant. It merely provides for raising and lowering, and neither discloses nor suggests the distance needed to meet the limitation cited.

20. Applicant's arguments with respect to claim 6 have been considered but are moot in view of the new ground(s) of rejection.

21. Applicant's arguments with respect to claims 7-21 have been considered but are moot.

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22. With respect to claim 7 applicant argues that Calkins does not disclose an enlarged support surface. As size is not patentable because a change in size is within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Moreover, applicants argument that applicants invention can be use for a wide variety of items in addition to watercraft is intended use. Moreover, additional, less broad terms for enlarged horizontal surface is plate, sheet, board, or flat rigid body, among others. www.dictionary.com.

23. With respect to claim 11, applicant argues that Calkins does not disclose an upwardly protruding structure for retaining. As noted above, Calkins surface 49 retains the object from falling downward in a vertical direction, and thus meets this limitation.

24. With respect to claim 13, applicant argues that Calkins does not disclose a movable support frame. As noted above Calkins discloses a support frame which moves relative to a base frame. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "...a lift to vertically adjust the vertical position of a watercraft...") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Further, Applicant is respectfully reminded that claim language consisting of functional language such as "...for movement..." and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or

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being used, as claimed. See MPEP 2112.02, 2114. Here, Urbank's support frame is certainly capable of raising or lowering.

25. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as noted above Urbank provides a movable support frame relative to a base frame when loading a dolly onto a trailer. While it is not relative motion within a dolly, Urbank discloses a movable, i.e. sliding, support frame permits loading of a watercraft on to a trailer, albeit when a watercraft is first positioned on a dolly.

26. With respect to claim 14, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for modification stems from the problem addressed in Ostrand. Ostrand discloses adding a lift for loading and unloading of watercraft to vary the height thereof

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due to the problem of breakage during transit. Col. 2, Ins. 5-25. Ostrand's lift is certainly "configured to move a support frame..." to address this problem.

27. Applicant argues with respect to claim 15 that as amended it does not recite the cited prior art. As noted above, Calkins et al. disclose a main support surface defining spaced apart opposite side edges, and an upwardly protruding structure to retain articles. It is noted that the upwardly protruding structure retains objects from falling down. Thus, Calkins et al. read on claim 15 as amended.

Conclusion

28. With respect to claims 1-6, Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. With respect to claims 7-21 applicants arguments were considered but were not persuasive. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA


DEAN J. KRAMER
PRIMARY EXAMINER 6/13/05